



BOARD OF COMMISSIONERS

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June 28, 2011

230407

Ms. Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 East St. SW
Washington D.C. 20423-0001

TIME TO WAIT

Re: Union Pacific Railroad -- Abandonment -- Benton County, Oregon
STB Docket No. AB-33 (Sub-no.257X)

Dear Ms. Brown:

This comment should be treated as a protest or a petition for reconsideration in the above-captioned proceeding. This comment is filed on behalf of Benton County which is a political subdivision of the State of Oregon, which is hereinafter referred to as 'Proponent'.

While not taking a position on the merits of this abandonment, Proponent requests issuance of a Public Use Condition as well as a Certificate or Notice of Interim Trail Use rather than an outright abandonment authorization between Milepost 671.58 south of Corvallis and Milepost 682.5 in Monroe including a spur terminating at Hull-Oakes Mill.

A. Public Use Condition

Commenter requests the STB to find that this property is suitable for other public use, specifically trail use, and to place the following conditions on the abandonment:

1. An order prohibiting the carrier from disposing of the corridor, other than the tracks, ties and signal equipment, except of public use on reasonable terms. The justification for this condition is that the corridor would make an excellent recreational trail and wildlife corridor, and conversion of the property to trail and wildlife uses is consistent with local plans. The time period sought is 180 days from the effective date of the abandonment authorization. Commenter needs this much time because we have not had an opportunity to assemble or to review title information, complete a trail plan or commence negotiations with the carrier.
2. An order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts and tunnels. The justification for this condition is that these structures have considerable value for recreational trail purposes. The time period requested is 180 days from the effective date of the abandonment authorization for the same reason as indicated above.

B. Interim Trail Use

The railroad right-of-way in this proceeding is suitable for railbanking. In addition to the public use conditions sought above, Commenter also makes the following request:

STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY

In order to establish interim trail use and rail banking under section 8(d) of the National Trails System Act, 16 U.S.C. §1247(d), and 49 C.F.R. §1152.29, Benton County is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned and operation by Union Pacific.

The property, known as the Bailey Branch, extends from railroad milepost 671.58 near Corvallis to railroad milepost 682.5, a distance of 10.92 miles in Benton County, Oregon. The right-of-way is part of a line of railroad proposed for abandonment in STB Docket No. AB-33 (Sub-no.257X).

A map depicting the right-of-way is attached.

Benton County acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

By my signature below, I certify service upon Union Pacific, Mack H. Shumate Jr., Senior General Attorney, 101 N. Wacker Drive, Room 1920, Chicago, IL 60606, by U.S. Mail, postage prepaid, first class, this 28th day of June 2011.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Linda Modrell', is written over a horizontal line.

Linda Modrell, Chair
Benton County Board of Commissioners

